IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WEALTH TAX APPLICATION NO.14 OF 1999

The Commissioner of Wealth-tax
Bombay City - IV, Bombay .. Applicant.
V/s.
J.A. Khandwala .. Respondent.

WEALTH TAX APPLICATION NO.15 OF 1999
AND
WEALTH TAX APPLICATION NO.16 OF 1999

The Commissioner of Wealth-tax
Bombay City - IV, Bombay .. Applicant.
V/s.
Ashok J. Khandwala .. Respondent.

WEALTH TAX APPLICATION NO.20 OF 1999

The Commissioner of Wealth-tax
Bombay City - IV, Bombay .. Applicant.
V/s.
Paresh J. Khandwala .. Respondent.

Mr.Parag Vyas i/b. Mr.T.C. Kaushik for the applicant.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 30TH SEPTEMBER, 2005.

P.C. :

1. By these applications filed under Section 27(3) of the Wealth Tax Act, 1961, the Revenue has challenged the impugned orders passed by the Income Tax Appellate Tribunal, Mumbai and raised the following substantial question of law :

> Whether on the facts and in the circumstances of the case, the Honourable

Tribunal was correct in holding that Rule 9A is applicable even when there is specific provision under Rule 14 of Schedule III for valuation of the assessee as a going concern ?

2. Heard the learned counsel for the applicant.

3. Learned counsel for the applicant-revenue invited our attention to the instructions issued by the Central Board of Direct Taxes, New Delhi dated 27th March, 2000; wherein monetory limit for the department for filing reference/appeal to the High Court earlier fixed for Rs.50,000/- came to be revised and fresh instructions are issued by the Board to file reference only in cases where tax effect exceeds Rs.2,00,000/-. Learned counsel for the applicant-revenue fairly admits that the stake of revenue in these cases is below Rs.2,00,000/-.

4. This Court in the case of C.I.T. V. Camco Colour Co., (2002) 254 ITR 565 ruled that the above instructions are binding on the department. This judgment is followed by this Court in C.I.T. v. Pithwa Engg. Works, (2005) 276 ITR 519 and held that it is not open for the Department to contend that this circular is binding only with respect to the new cases and not with respect to the old cases even if the tax is less than Rs.2 lakh. The same policy for old matters needs to be adopted by the Department.

5. The above instructions dated 27th March, 2000 reflects the policy decision taken by the Board not to raise questions of law where the tax effect is less than the amount prescribed in the instructions with a view to reduce litigations before High Courts and Supreme court. The circular is binding on the Revenue. There is no justification to proceed with these applications having tax effect less than Rs.2,00,000/-.

6. We, thus, do not think it necessary to entertain these applications and answer the question raised by the applicant-revenue. Accordingly, all the applications stands dismissed with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)